

TOWN OF LEXINGTON



MASSACHUSETTS 02420

1625 MASSACHUSETTS AVENUE

PURCHASING DIVISION

REQUEST FOR PROPOSALS

#06-22

PROGRAMING, MANAGEMENT AND OPERATION OF PEG ACCESS

The Board of Selectmen is seeking sealed proposals for the provision of Public, Educational and Governmental (PEG) Access services in Lexington beginning July 1, 2005. The successful PEG Access provider will manage the PEG Access channels, equipment and facilities in accordance with the contract documents. Copies of the Proposal may be picked up at the Town of Lexington Procurement Office, 1625 Massachusetts Avenue, Room #105, Lexington MA 02420 between 9:00 a.m. and 4:00 p.m. Monday through Friday after April 28, 2005. A pre-proposal meeting is scheduled for Thursday, May 26, 2005, 2:00 p.m. at Kite's End, 922 Waltham Street, Lexington, MA 02421. All proposers are urged to attend.

For information pertaining to this RFP, please contact David Becker phone #781-861-0547 e-mail beckerDS@AOL.com or James M. McLaughlin, Chief Procurement Officer phone 781-862-0500 x221 e-mail jmclaugh@ci.lexington.ma.us

Proposals must be in a sealed envelope plainly marked on the outside **RFP #06-22, Programming, Management and Operation of PEG Access (one original and 10 copies)**, and delivered to the Town of Lexington Procurement Office, Room #105, 1625 Massachusetts Avenue, Lexington MA 02420 no later then **Thursday, June 9, 2005 at 2:00 p.m.**

The Town of Lexington reserves the right to accept or reject, in part or in whole, any or all proposals, and to waive any informality, and to make an award as may be in the best interest of the Town. Proposals will remain firm and may not be withdrawn for thirty days. This contract will be awarded only to a responsive and responsible established Proposer capable of performing the services contemplated and meeting the criteria set forth in the Request For Proposal in accordance with Massachusetts General Law c.30B s.6

James M. McLaughlin
Chief Procurement Officer
781-862-0500 x221

**Town of Lexington
RFP #06-22
Request For Proposals for
Programming, Management and Operation of PEG Access
In the Town of Lexington, Massachusetts**

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I. INTRODUCTION

I A. Background

Two cable operators presently serve Lexington: Comcast and its predecessors have been licensed since 1981, and Comcast is currently under a ten-year renewal license effective September 1, 2004. RCN is operating under an initial ten-year license that was effective May 23, 1999.

Since the Town awarded its first cable television license, Comcast's predecessors have provided and operated studio facilities, produced local cable programming (technically Public, Educational and Governmental (PEG) Access programming and Local Origination programming) for Lexington and distributed this programming to all its subscribers. Effective May 23, 1999, the Town awarded a second cable license to RCN-BECOCOM (RCN).

It has been difficult to equitably distribute Lexington PEG Access programming to all cable subscribers. The Town believes all subscribers of both operators should receive this programming. There are also logistical problems in sharing live signals, so that some subscribers faced delays in receiving this programming.

Presently, there are three PEG Access channels, with the possibility of a fourth channel when a need for additional channel capacity has been demonstrated using objective criteria.

The Town engaged a PEG programming consultant to determine local interest in having a Designated Access Provider take over the PEG Access programming function and provide programming to all Lexington cable subscribers. The consultant found very strong interest in such an organization, and many residents wanted additional materials produced for the benefit of local institutions and activities.

To avoid disruption to local cable programming until the Designated Access Provider is selected, the Town has sublet the studio at Kite's End from Comcast for the period April 1, 2005 to June 30, 2005 for an Interim Operation, and is continuing production in a manner identical to Comcast's operation to the extent possible. There is little change in the materials produced in this interim period, but there is a major operational improvement: Subscribers to both operators' cable services now receive identical programming on a common schedule. The Town intends that the Designated Access Provider shall initially operate from this studio and select its final studio location within one year after contract award. Presently, the monthly lease amount for Kite's End is \$2,200.00

Equipment purchased by the Town or Designated Access Provider, and former Comcast equipment made available for use by the Designated Access Provider under the terms of this agreement, will be the property of the Town.

The Designated Access Provider will be responsible for the quality of all PEG Access productions. The cable operators will monitor the PEG Access channels for technical quality and will ensure that they continue to meet FCC technical standards.

I B. Contract Monitor

The successful Proposer will be required to enter into a contract. A committee appointed by the Board of Selectmen will monitor successful Proposer.

II. GENERAL INSTRUCTIONS

SUBMISSION OF PROPOSAL

Each bidder shall submit their proposal on 8 ½ x 11 paper, typed or computer generated, single sided in a neat concise manner. Proposals shall be bound with GBC binding. All words and figures shall be written in ink. In case of a discrepancy between the words and the figures, the written words shall govern.

All proposals shall be signed correctly, in ink, in the following manner:

- If an individual makes the proposal, that individual's signature, name, and address shall be given.
- If a partnership or corporation makes the proposal, it shall be signed by a duly authorized person, who shall give his/her name and title as well as the name and address of the partnership or corporation.
- If the proposal is made by a partnership, the signatures, names, and addresses of the individual members shall be given.
- If the proposal is made by a corporation, the name and the State under the laws of which said corporation is chartered and the signatures, names, titles, and business addresses of President, Treasurer, and Managers shall be given.

REVIEW OF BIDDERS AND CONTRACT EXECUTION

Proposals that are incomplete or obscure may be rejected, and proposals that contain erasures, alterations, or other irregularities of any kind, or in which errors occur, may be rejected as informal or improper, all as provided for pursuant to M.G.L. c.30B. Any or all proposals will be rejected if there is a reason for the Town to believe that there is collusion among the bidders. Any proposal so rejected will disqualify those bidders from consideration in future proposals for the same work, and those bidders may be disqualified from bidding on future work. The Chief Procurement Officer will review all Proposals in accordance with M.G.L. c.30B and final selection will be based on an evaluation and analysis, by the RFP evaluation committee, of the information and materials required under this RFP. The contract will be awarded to a proposer who meets the minimum evaluation criteria, submits the required documents, has the demonstrated experience and resources to fulfill the contract and best meets the comparative evaluation criteria.

A bidder may withdraw his/her proposal provided the request is in writing and in the hands of the Chief Procurement Officer **before the time of the opening of the proposals**. Such proposals will be returned unread.

REVIEW AND EVALUATION OF PROPOSALS

The Contract will be awarded only to a **responsive** and **responsible** established proposer capable of performing the services contemplated and meeting the criteria set forth in the Specifications and Instructions to Proposers. Each proposal will be screened to determine whether it meets all of the proposal submission requirements as described in the Instructions to Proposers.

NOTE: To qualify as a **responsive** and **responsible** proposer:

- A) A **responsive** proposer shall mean a proposer who has submitted a proposal which conforms in all material respects to this request for proposal, including inclusion of all the information or documentation specified in the proposal submission requirements.
- B) A **responsible** proposer shall mean a proposer who has demonstrated the capability to perform fully the contract requirements, and the integrity and reliability which assures a good faith performance.

Proposals will be evaluated based on relevant factors deemed to be in the best interests of the Town including without limitation: quantity, quality, and condition of equipment; personnel and management system; communication system; ability to deliver top quality service as evidenced by non-price proposal and/or interviews with selected Proposers level of satisfaction expressed by the proposer's prior or current customers. The Town reserves the right to weigh its evaluation criteria in any manner it deems appropriate and to use its own experience with a proposer and contact sources for whom references were not provided. The Town will select one Base Proposal and may select any one alternative or combination of alternatives, or no alternatives, from the successful proposer's proposal.

III. INSTRUCTIONS

Proposers shall submit one (1) original and ten (10) sealed copies of there Proposals to the Town of Lexington Procurement Office, Room #105, 1625 Massachusetts Avenue, Lexington MA 02420. The Town of Lexington reserves the right to reject any and all proposals, to waive any informality and to make award as may be in the best interest of the Town. All proposals must be in a sealed envelope, clearly marked: Request For Proposals for Programming, Management and Operation of PEG Access. **To be considered, proposals must be received by the Procurement Office no later than 2:00 p.m. on Thursday, June 9, 2005.**

Minimum Requirements. To be considered responsive, proposals must satisfy the following minimum qualifications:

The proposed organization must be a 501(c)(3) corporation. If the Proposer is not already such a corporation, the proposal must include a statement of the proposers' willingness, ability and intention to form such a corporation within three months of the date of the contract with the Town. The Proposer must bear the cost of incorporation if such corporation does not already exist.

The proposed PEG Access facility must be located in Lexington for the entire term of the contract.

The proposed organization or those who will have responsibility for providing the services called for in this RFP must provide evidence of appropriately related experience. Completion of non-collusion and tax compliance certifications (attached).

Additional Required Information. For purposes of comparative evaluation, proposals must additionally include the following:

- A statement of philosophy about PEG Access, including the proposers vision for station operations as well as examples the Proposer may have of successful PEG Access providers in other communities that they intend to emulate;
- An organizational plan for the proposed or existing organization, including a description of the organization's governance structure;
- A 3-year business plan that demonstrates allocation of resources, staffing plans, program development, etc;
- A 3-year capital plan;
- Qualifications of proposed or existing principal staff;
- A sampling of proposed outreach activities;

- A proposal for assessing community needs, interests and concerns, and for demonstrating responsiveness to those assessments; and
- A proposal for enhancing the basic funding provided for public access through grants, underwriting, relationships with outside entities, and other fundraising activities.
- Proposals may include any other information, which will help the Town understand and evaluate the Proposers qualifications, commitment to PEG Access and to the Town of Lexington.

Questions concerning this RFP must be in writing and received by the Chief Procurement Officer no later than Monday, May 23, 2005. Written questions must be delivered to the Chief Procurement Officer, Town of Lexington, 1625 Massachusetts Avenue, Lexington, MA 02420. All questions submitted will be answered at the Pre-Proposal meeting at Kite's End, 922 Waltham Street, Lexington MA 02421, scheduled for Thursday, May 26, 2005 @ 2:00 p.m.

SCOPE OF SERVICES

This RFP is for PEG Access services as described herein.

The Designated PEG Access provider will manage the PEG Access channels, equipment and facilities on a non-discriminatory basis.

The Designated PEG Access provider shall be responsible for cable casting PEG Access programming in the Town of Lexington.

The Designated PEG Access provider shall transmit PEG Access programming to all operators providing cable television services in the Town of Lexington. The Designated PEG Access provider shall ensure that the programming on each public access channel is transmitted simultaneously to all cable operators except when emergency conditions prevent such simultaneous transmission.

With respect to the public access channels, the Designated PEG Access provider will:

Be responsible for programming free from censorship of program content:

Develop and promote programming including but not limited to cultural, literacy, educational and public affairs content:

Make the public access facilities and channels available in a non-discriminatory manner to encourage the exchange of ideas and opinions on a broad range of topics:

Assume responsibility for fund-raising to supplement Public Access programming:

Be responsible for consistent outreach to the various segments of the community to encourage use of the public access channels.

The Designated PEG Access provider shall continue to produce and cablecast all programming being produced and cablecast as of the date of contract award (Baseline Programming) by the Interim Operation. No part of this Baseline Programming may be reduced or eliminated unless both of the following conditions have been met:

- a). At least six months have passed from the date of contract award, and.
- b) The Designated PEG Access provider has ascertained the community's interest in this Baseline Programming using means such as polling, distributing questionnaires, etc., and culminating in a public hearing.

This requirement does not limit the right of the Designated PEG Access provider to move any part of this Baseline Programming among the three PEG Access channels as it sees fit. The Designated PEG Access provider is also encouraged to add as much new programming as possible consistent with available funding.

The designated PEG Access provider will manage and operate the Educational and Governmental Access channels in consultation with the Lexington Public Schools and Town Manager, respectively, and assume such other responsibilities related to the two channels as the designated PEG Access provider and the Town Manager, for the Governmental Access channel, and the Superintendent of Schools, for the Educational Access channel, may mutually agree upon.

In addition, the Designated PEG Access provider will hold workshops for the purpose of teaching television skills to individuals and community groups; manage funds designated for PEG Access television; schedule PEG Access cable casting, manage and maintain PEG Access facilities and equipment; and be responsible for ensuring an acceptable level of technical quality of all programs cablecast on its system, pursuant to FCC regulations. While individuals and community groups may submit programming that was produced outside of the studio, the Designated PEG Access provider will not be obligated to cablecast any PEG Access program that does not meet FCC technical standards. However, a decision not to cablecast a program due to technical problems will in no way involve consideration of the actual content of the program itself. The Designated PEG Access provider will not be held responsible for technical problems under control of the cable systems.

The Designated PEG Access provider will have or create operating policies and procedures governing PEG Access including but not limited to use of equipment and facilities, training programs, membership, outreach activities, and cable casting procedures.

The Designated PEG Access provider will maintain a log of programming that is cablecast on the PEG channels, and a record of PEG producers. Logs will be available for public inspection and retained by the Designated PEG Access provider for a minimum of three years.

The Designated PEG Access provider shall institute a program for redundant, permanent storage of all materials produced or cablecast. The following requirements apply to this storage

1. Duplicate copies of the data must be held at a physically separate location with protection against fire and other hazards.
2. At the earliest possible time, all material shall be converted to, and stored in, digital form.
3. The material shall be machine searchable by using criteria which shall include at least date, title, producer and key words
4. It shall be possible to retrieve for viewing any specific program within one minute of the start of the search.
5. The retrieval process shall support simultaneous access to multiple stored programs.

The Designated PEG Access provider will cablecast all annual and special Town Meetings, public hearings preliminary to Town Meetings, Board of Selectmen and School Committee meetings, and other committee meetings and community events as requested. The Designated PEG Access provider is encouraged to add to this list other governmental and community meetings (e.g. "Candidates Nights", "Board of Appeals") as funding permits and with concurrence of the hosts of the meetings. Such cable casting shall include an initial live cablecast and at least three subsequent cablecasts of the recordings within one week of the original session. The timing of the subsequent cablecasts should span a range of times during the day (e.g., morning, afternoon, night) so as to be accessible to as many subscribers as possible.

The Designated PEG Access provider will produce Governmental Access programming in consultation with the Town Manager and assume such other responsibilities related to this production as the Designated PEG Access provider and the Town Manager mutually agree upon.

The Designated PEG Access provider will produce Educational Access programming following policies and guidelines established by the Lexington Public Schools and assume such other responsibilities related to this production as the Designated PEG Access provider and the Superintendent of Schools may mutually agree upon.

The directors, managers and staff of the Designated PEG Access provider will make themselves available from time to time to advise the Town on matters concerning PEG Access.

The Designated PEG Access provider will engage in outreach activities designed to inform Town residents and organizations about the availability and use of PEG Access channels and to encourage their use.

The designated PEG Access provider will provide a community calendar on the Public Access channels for the purpose of announcing programming and access services, making public service announcements, and allowing the Town, the School Department or other nonprofit organizations to make certain announcements. The community calendar will be updated regularly. The community calendar will be cablecast when regular programming is not scheduled.

The Designated PEG Access provider will publicize each week's programming schedule in the previous week's issue of at least one local newspaper, which, until further direction, is the Lexington Minuteman.

The Designated PEG Access provider shall create and maintain a Web site that allows access to an up-to date copy of, at a minimum, the current and following week's programming schedules, the Community calendar and timely notification of planned schedule changes.

The Designated PEG Access provider will be responsible for locating, arranging for use of, managing and maintaining facilities, including payment for rent, for the PEG Access purposes under this agreement, except that the Designated PEG Access provider will not be required to pay for the use of Town or School facilities used for PEG Access purposes.

The Designated PEG Access provider will maintain accounting, budget, and business systems for the management, operation, protection, investment, and oversight of the facility and public access services that comply with generally accepted accounting principles (GAAP).

The Designated PEG Access provider shall take whatever precautions are necessary to protect all of the loaned and owned property. In particular, it shall establish a system of non-removable identity tags on all equipment and an inventory log of all of the loaned and owned equipment so that the whereabouts of each piece of equipment is known at all times.

The Designative PEG Access provider shall provide public access production services to those who live, work or attend school in Lexington on a first come first served, non-discriminatory basis, using the Designated PEG Access provider's facility, equipment, staff and other resources as the Designated PEG Access provider deems necessary and appropriate to fulfill community access management needs. The Designated PEG Access provider shall not provide public access production services to those that do not meet the criteria of the preceding paragraph without prior approval of the Town Manager.

The Town requires an initial focus on continuing and enhancing cable television programming currently provided to cable television subscribers, and training users in producing their own video programming, but intends that the Designated PEG Access provider shall make available enhanced services. The Town requires that priority be given to making all cablecast material available in real time through an easy Internet connection. Other desired enhancements include:

- Making contents of the archive of previously cablecast programming available for viewing at the Designated PEG Access provider's studio based on specified date/time of cablecast, title, producer and keyword(s).
- Making the contents of the archive of previously cablecast programming available for on-demand viewing by Internet users based on specified date/time of cablecast, title, producer and keyword(s).
- Training users in developing Web pages.
- Training users in effective application of computers and sophisticated home entertainment equipment.

The range of activities is limited only by the ideas and funding available to the Designated PEG Access provider.

IV. PROPOSAL REVIEW CRITERIA

If the Minimum Criteria (section II) have been met and the Additional Required Information (section II) provided, proposals will be compared and evaluated by a review panel designated by the Town Manager. Based upon this evaluation, the review panel will make recommendations to the Town Manager. Proposals which meet the minimum requirements will be evaluated on the basis of how well each meets the needs, interests and objectives of the Town in three areas: governance, policies and procedures and business plan. The Town will negotiate a contract with the organization that submits the proposal rated highest using these criteria. With respect to each criterion, proposals will be determined to be Highly Advantageous, clearly meeting all of the needs of the Town; Advantageous, meeting some of these needs or meeting all of them minimally; or Unacceptable, not meeting the needs of the Town satisfactorily.

1) Policy Development. The PEG Access provider should demonstrate in its statements of PEG Access philosophy a broad understanding of and support for the goals of PEG Access in the Town of Lexington. This statement should include its goals, planning, projections and expectations for public access programming, including hours of operation, percentage of locally-produced programming, sources of external programming, ratios of original/repeat and locally/non-locally produced programming.

2) Governance Structure. The PEG Access provider should have a governance structure that is adequate to provide guidance to and control over the organization, and, at the same time present the broadest representation of the community of users and the community of Lexington. The board of directors or other proposed governing body must elect one member designated by the Town and one member designated by the School Department.

3) Financial and Management. The PEG Access organization should describe proposed plans for financial management adequate to assure control over the capital and operating funds of the organization and, at the same time, present the broadest opportunities for PEG Access for the community of users and the community of Lexington. The outline should include a three-year plan for allocation of resources, staffing, program development and for procuring and maintaining equipment purchased by the organization, and for management of PEG Access facilities.

4) Staffing. The PEG Access organization should describe the experience in PEG Access or related fields for principal staff, including affiliations with professional or

access advocacy organizations and the technical qualifications of existing or proposed staff in installation, use and maintenance of equipment sufficient to assure the highest levels of production quality.

5) Outreach Activities. The PEG Access organization should describe proposed plans for outreach activities designed to inform Town residents and organizations about the availability and use of PEG Access channels and to encourage their use. The proposal should include a description of how the organization would perform community needs assessments and apply the results to decisions regarding PEG Access operations. It should describe plans for developing the operation, for increasing membership and participation by both individuals and non-profit organizations, and methods that the organization would employ to provide for ongoing outreach to all sectors of the community.

6) Needs Assessment. The PEG Access organization should describe proposed plans for assessing community needs, interests and concerns, and for demonstrating responsiveness to those assessments.

7) Revenue Enhancement. The PEG Access organization should describe proposed plans for enhancing the basic funding provided for public access through grants, underwriting, relationships with outside entities, and other fundraising activities.

8) Budget. For planning purposes, assume an initial budget of \$150,000. and quarterly payments of approximately \$55,000.

9) Equipment. The Town will provide start-up equipment (equipment list is attached as Exhibit "B") to include a van that has been outfitted as a mobile studio.

Contract Provisions. The successful Proposer will be required to sign a contract, which is attached hereto in draft form as Exhibit "A".

Term of Contract. The initial term of this contract will be three years, with an option by the Town of Lexington to renew the contract for two (2) additional one (1) year periods. The contract will be renewable based on the performance of the designated PEG Access provider in meeting its objectives. The Town will measure success in this context based on reports submitted by the designated PEG Access provider and on opinions of the public as determined by polling, questionnaires, public hearings and other means.

Liability. The Designated PEG Access provider will require every access user to indemnify the Town of Lexington and the designated PEG Access provider and hold both harmless against any claims arising out of program or program material produced and/or cablecast, including but not limited to, claims in the nature of libel, slander, invasion of privacy or publicity rights, non-compliance with applicable laws, license fees and the unauthorized use of copyrighted material.

The Designated PEG Access provider will maintain workers' compensation, general liability, comprehensive and non-owned vehicle liability insurance coverage naming the Town as an additional insured throughout the term of the contract, and will provide the Town with certificates of such insurance on an annual basis.

Termination. The Town will require that any contract include provisions for its termination, including termination upon the adjudication of the bankruptcy of the designated PEG Access provider and termination if the Town determines that the Designated PEG Access provider has failed to fulfill its responsibilities pursuant to the terms and conditions of the contract. The Town will agree to provisions, which balance the interests of the PEG Access provider with those of the Town, and to balanced procedures for hearings into matters of breach or non-performance. The Town will require that upon termination of the contract, the Town and the designated PEG Access provider will agree as to disposition of outstanding obligations of the designated PEG Access provider, and the disposition and transfer of all equipment acquired under the terms of the Renewal License and any and all equipment acquired by the designated PEG Access provider by other means.

Public Performance Evaluations. Every year, within ninety days of the anniversary date of the execution of the PEG Access contract, the designated PEG Access provider will take part in a public performance evaluation, in the form of a public hearing conducted by the Town's Cable Advisory Committee. The process and conduct of this evaluation will be determined by the Town and communicated to the designated PEG Access provider within the first thirty days of the ninety day evaluation period. The purpose of said evaluation will be to determine whether the designated PEG Access provider is performing its responsibilities pursuant to the contractual agreement including, without limitation, public access programming, managing the annual payments for PEG Access, training residents and scheduling PEG Access channels. After the first performance evaluation, the frequency of said evaluations may be changed by the advance, mutual written agreement of the Town and the designated PEG Access provider. Specific performance criteria may be made part of the contract.

Reporting Requirements. Within ninety days after the end of each fiscal year, the designated PEG Access provider will provide, at its own expense, financial and operating reports to the Town Manager. The operating report will reflect input received from community members and organizations, and will serve as a means of evaluating the performance of the designated PEG Access provider and identifying new goals and directions. The designated PEG Access provider will be scheduled to attend a subsequent Board of Selectmen meeting to summarize its annual operating report and respond to any questions that the Board may have regarding the report or the most recent public performance evaluation.

VI. CERTIFICATIONS

IN WITNESS WHEREOF, the undersigned certifies, under the pains and penalties of perjury that:

1. It is in compliance with all of the provisions, and shall remain in compliance with the provisions for the life of any Contract resulting from this solicitation. That the bidder is qualified to perform any such Contract and possess, or shall obtain, all requisite licenses and permits to complete performance; shall maintain all unemployment, workers' compensation, professional and personal liability insurance policies sufficient to cover its performance under any such Contract; and shall comply with relevant prevailing wage rates and unemployment laws.
2. To the best of its knowledge and belief has paid all local taxes, tax titles, utilities, motor vehicle excise taxes, water and wastewater bills to the Town of Lexington as required by law.
3. To the best of its knowledge and belief has filed all State tax returns and paid all State taxes required by law, and has complied with reporting of employees and contractors, and withholding and remitting of child support (MGL c.62C, s.49A).
4. Pursuant to MGL c.30B s.10 (or c.30 s.39M), this bid or proposal has been made in good faith and without collusion or fraud with any other person. As used in this paragraph, "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

Signature of Person Signing Bid or Proposal

BY: Corporate Officer (Type/Print)

Corporate Name (Full Business Name)

BY: Corporate Officer (Sign)

Social Security or Federal Tax ID#
(DBA)

State of Incorporation/City of Business

Registration

Approval of a contract, or other agreement, will not be granted unless the applicant signs this certification form. You're Social Security number or Federal Tax Identification number will be furnished to the Massachusetts Department of Revenue (DOR) to determine weather you have met tax filing or tax payment obligations. The Town of Lexington is required to furnish a list to the DOR at the end of its fiscal year, showing the vendors to whom more than \$5,000 is paid during the twelve months, ending June 30. Providers who fail to correct their non-filing or delinquency, will not have a contract or other agreement issued or extended. This request is made under the authority of Massachusetts General Laws, c.62C, s.49A